

AMENDED IN SENATE AUGUST 17, 1999

AMENDED IN SENATE JUNE 28, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1068

Introduced by Assembly Member Ducheny

February 25, 1999

An act to amend, *repeal, and add* Section 14105 of the Welfare and Institutions Code, relating to Medi-Cal, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1068, as amended, Ducheny. Medi-Cal: provider reimbursement.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Existing law authorizes the Director of Health Services to adopt rates of payment that reflect budgeting decisions of the Legislature.

This bill would, *until July 1, 2004*, require the director to modify all existing capitated reimbursement rates and their related contracts to reflect changes in regulations setting the rate adjustments within 90 days after the adoption of the regulations setting the rates.

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature recognizes that
2 access to care in the Medi-Cal program is an increasing
3 problem. Despite California's efforts to increase access
4 through managed care expansion, it appears that access
5 to care is still a problem in many areas.

6 (b) Evidence exists indicating that provider
7 participation in Medi-Cal managed care programs is
8 directly related to provider reimbursement and that
9 existing rates are too low to ensure sufficient
10 participation.

11 (c) Recent studies have also shown that both
12 fee-for-service reimbursement and capitation rates in the
13 Medi-Cal program are among the lowest in the country.

14 (d) For this reason when the Legislature appropriates
15 additional moneys for provider reimbursement in the
16 Medi-Cal program, the Legislature intends that those
17 moneys be directed to those providers in both
18 fee-for-service and managed care systems.

19 SEC. 2. Section 14105 of the Welfare and Institutions
20 Code is amended to read:

21 14105. (a) The director shall prescribe the policies to
22 be followed in the administration of this chapter, may
23 limit the rates of payment for health care services, and
24 shall adopt such rules and regulations as are necessary for
25 carrying out this chapter.

26 The policies and regulations shall include rates for
27 payment for services not rendered under a contract
28 between the department and health plans providing
29 health care services on a capitated basis. For purposes of
30 this section, "health plan" means an entity that has
31 entered into a contract with the department on a
32 capitated basis to provide, or arrange for the provision of,
33 health care services to eligible Medi-Cal beneficiaries. In

1 order to implement expeditiously the budgeting
2 decisions of the Legislature, the director shall, to the
3 extent permitted by federal law, adopt regulations setting
4 rates which reflect such decisions within 30 days after the
5 enactment of the Budget Act and of any other
6 appropriation which changes the payments made by the
7 department to Medi-Cal fee-for-service providers. The
8 proposed regulations shall be submitted to the
9 Department of Finance no later than five days prior to
10 the date of adoption. With the written approval of the
11 Department of Finance, the director shall adopt such
12 regulations as emergency regulations in accordance with
13 the Administrative Procedure Act (Chapter 3.5
14 (commencing with Section 11340) of Part 1 of Division 3
15 of Title 2 of the Government Code). For purposes of that
16 act, the adoption of such regulations shall be deemed an
17 emergency and necessary for the immediate
18 preservation of the public peace, health, and safety or
19 general welfare.

20 (b) For the purposes of health plans, the director, and,
21 with respect to contracts negotiated by the California
22 Medical Assistance Commission, the commission, shall,
23 within 90 days after the adoption of regulations to
24 implement changes, authorized by the Budget Act or
25 other specific legislation, in rates of payment for services
26 not rendered under a contract between the department
27 and health plans, modify health plan contracts to reflect
28 the rate changes made by the regulations. The
29 modifications shall only apply to capitated rates that
30 cover the same services for which the rates were changed
31 by the regulations. The rate changes shall be retroactive
32 to the effective date of the changes in regulations. Health
33 plans contracting with the department shall ~~pay 100~~
34 ~~percent~~ *receive and pay the actuarial equivalent* of the
35 rate increases to all subcontractors rendering or
36 arranging for the specific services covered by the rate
37 increases. In addition to ~~rate increases, if appropriated by~~
38 ~~the Legislature, plans would the reimbursement~~
39 *received and passed along by plans, as required in this*
40 *subdivision, plans shall receive the actual, reasonable*

1 administrative cost directly related to passing on the rate
2 increases. Plans may shift funds within each ~~type~~ of
3 ~~provider~~ *broad provider category, except hospitals*, for
4 the purpose of ensuring and improving access for
5 Medi-Cal managed care enrollees. Except as specifically
6 required in this section, this section shall not otherwise
7 govern the rates at which plans pay their contracting
8 providers. Any rate changes required by this section shall
9 be applied by plans to the existing reimbursement levels
10 of their contracting providers. These increases shall not
11 be accompanied by any additional requirements on the
12 health plans. No rate changes required under this section
13 shall be made unless the department determines that the
14 methodology used for these changes satisfies federal
15 Medicaid requirements and that the department will
16 receive federal financial participation for all rate changes.
17 The requirement that health plans pay subcontractors
18 rate increases shall apply equally to managed care plans,
19 independent practice associations, *medical groups*, and
20 any other entity that contracts to provide or arrange for
21 the provision of health care services to Medi-Cal
22 members of the health plan. *The department, in*
23 *conjunction with the commission, shall evaluate the*
24 *process established pursuant to this subdivision in order*
25 *to determine whether it ensures that Medi-Cal provider*
26 *increases are being passed along to providers*
27 *participating in capitated health plans. The department*
28 *and the commission shall submit a joint report to fiscal*
29 *and appropriate policy committees of the Legislature on*
30 *or before March 1, 2003, evaluating this process and*
31 *making any recommendations for improving the*
32 *requirements of this subdivision.*

33 (c) Insofar as practical, consistent with the efficient
34 and economical administration of this part, the
35 department shall afford recipients of public assistance a
36 choice of managed care arrangements under which they
37 shall receive health care benefits and a choice of primary
38 care providers under each managed care arrangement.

39 (d) If, in the judgment of the director, the actions
40 taken by the director under subdivision (c) of Section

1 14120 will not be sufficient to operate the Medi-Cal
2 program within the limits of appropriated funds, he or she
3 may limit the scope and kinds of health care services,
4 except for minimum coverage as defined in Section
5 14056, available to persons who are not eligible under
6 Section 14005.1. When and if necessary, that action shall
7 be taken by the director in ways consistent with the
8 requirements of the federal Social Security Act.

9 (e) The director shall adopt regulations implementing
10 regulatory changes required to initially implement, and
11 annually update, the United States Health Care
12 Financing Administration's common procedure coding
13 system as emergency regulations in accordance with
14 Chapter 3.5 (commencing with Section 11340) of Part 1
15 of Division 3 of Title 2 of the Government Code. For the
16 purposes of the Administrative Procedure Act, the
17 adoption of the regulations shall be deemed to be an
18 emergency and necessary for the immediate
19 preservation of the public peace, health and safety, or
20 general welfare. These regulations shall become effective
21 immediately upon filing with the Secretary of State.

22 (f) Notwithstanding any other provision of law,
23 prospective reimbursement for any services provided to
24 a Medi-Cal beneficiary in a nursing facility that is a
25 distinct part of an acute care hospital shall not exceed the
26 audited costs of the facility providing the services.

27 (g) Notwithstanding any other provision of law,
28 reimbursement of anesthesiology, surgical services, and
29 the professional component of radiology procedures
30 except for comprehensive perinatal and obstetrical
31 services shall be reduced by 9.5 percent of the amount of
32 reimbursement provided for any of those services prior
33 to the operative date of this subdivision. The director may
34 exclude emergency surgical services performed in the
35 emergency department of a general acute care hospital.
36 To be excluded, emergency surgical services must be
37 performed by an emergency room physician or a
38 physician on the emergency department's on-call list.

39 (h) (1) It is the intent of the Legislature in enacting
40 this subdivision to enable the department to obtain

1 Medicare cost reports for the purpose of evaluating its
2 Medi-Cal reimbursement rate methodology for nursing
3 facilities.

4 (2) Skilled nursing facilities licensed pursuant to
5 Chapter 2 (commencing with Section 1250) of Division
6 2 of the Health and Safety Code shall submit copies of all
7 Medicare cost reports to the department by October 1,
8 1995, for reporting periods that ended between July 1,
9 1993, and June 30, 1995.

10 On or after July 1, 1995, those facilities shall submit the
11 copies to the department on the date that the Medicare
12 cost reports are submitted to the Medicare fiscal
13 intermediary.

14 (3) Hospitals providing skilled nursing care licensed
15 pursuant to Chapter 2 (commencing with Section 1250)
16 of Division 2 of the Health and Safety Code shall submit
17 a copy of all Medicare cost reports for reporting periods
18 ended:

19 (A) January 1, 1993, through June 30, 1995, to the
20 department by October 1, 1995.

21 (B) On or after July 1, 1995, to the department when
22 the Medicare cost reports are submitted to the Medicare
23 fiscal intermediary.

24 ~~SEC. 3. This act is an urgency statute necessary for the~~
25 ~~immediate preservation of the public peace, health, or~~
26 ~~safety within the meaning of Article IV of the~~
27 ~~Constitution and shall go into immediate effect. The facts~~
28 ~~constituting the necessity are:~~

29 ~~In order to make timely adjustments to conform to~~
30 ~~budgetary changes affecting the rates of payment for~~
31 ~~health care services, it is necessary that this act take effect~~
32 ~~immediately.~~

33 *(i) This section shall become inoperative on July 1,*
34 *2004, and, as of January 1, 2005, is repealed, unless a later*
35 *enacted statute that is enacted before January 1, 2005,*
36 *deletes or extends the dates on which it becomes*
37 *inoperative and is repealed.*

38 *SEC. 3. Section 14105 is added to the Welfare and*
39 *Institutions Code, to read:*

1 14105. (a) The director shall prescribe the policies to
2 be followed in the administration of this chapter, may
3 limit the rates of payment for health care services, and
4 shall adopt such rules and regulations as are necessary for
5 carrying out, not inconsistent with, the provisions
6 thereof.

7 The policies and regulations shall include rates for
8 payment for services not rendered under a contract
9 pursuant to Chapter 8 (commencing with Section 14200).
10 In order to implement expeditiously the budgeting
11 decisions of the Legislature, the director shall, to the
12 extent permitted by federal law, adopt regulations setting
13 rates which reflect such decisions within one month after
14 the enactment of the Budget Act and of any other
15 appropriation which changes the level of funding for
16 Medi-Cal services. The proposed regulations shall be
17 submitted to the Department of Finance no later than
18 five days prior to the date of adoption. With the written
19 approval of the Department of Finance, the director shall
20 adopt such regulations as emergency regulations in
21 accordance with the Administrative Procedure Act
22 (Chapter 3.5 (commencing with Section 11340), Part 1,
23 Division 3, Title 2 of the Government Code). For
24 purposes of that act, the adoption of such regulations shall
25 be deemed an emergency and necessary for the
26 immediate preservation of the public peace, health, and
27 safety or general welfare.

28 (b) Insofar as practical, consistent with the efficient
29 and economical administration of this part, the
30 department shall afford recipients of public assistance a
31 choice of managed care arrangements under which they
32 shall receive health care benefits and a choice of primary
33 care providers under each managed care arrangement.

34 (c) If, in the judgment of the director, the actions
35 taken by the director under subdivision (c) of Section
36 14120 will not be sufficient to operate the Medi-Cal
37 program within the limits of appropriated funds, he may
38 limit the scope and kinds of health care services, except
39 for minimum coverage as defined in Section 14056,
40 available to persons who are not eligible under Section

1 14005.1. When and if necessary, that action shall be taken
2 by the director in ways consistent with the requirements
3 of the federal Social Security Act.

4 (d) The director shall adopt regulations implementing
5 regulatory changes required to initially implement, and
6 annually update, the United States Health Care
7 Financing Administration's common procedure coding
8 system as emergency regulations in accordance with
9 Chapter 3.5 (commencing with Section 11340) of Part 1
10 of Division 3 of Title 2 of the Government Code. For the
11 purposes of the Administrative Procedure Act, the
12 adoption of the regulations shall be deemed to be an
13 emergency and necessary for the immediate
14 preservation of the public peace, health and safety, or
15 general welfare. These regulations shall become effective
16 immediately upon filing with the Secretary of State.

17 (e) Notwithstanding any other provision of law,
18 prospective reimbursement for any services provided to
19 a Medi-Cal beneficiary in a nursing facility that is a
20 distinct part of an acute care hospital shall not exceed the
21 audited costs of the facility providing the services.

22 (f) Notwithstanding any other provision of law,
23 reimbursement of anesthesiology, surgical services, and
24 the professional component of radiology procedures
25 except for comprehensive perinatal and obstetrical
26 services shall be reduced by 9.5 percent of the amount of
27 reimbursement provided for any of those services prior
28 to the operative date of this subdivision. The director may
29 exclude emergency surgical services performed in the
30 emergency department of a general acute care hospital.
31 To be excluded, emergency surgical services must be
32 performed by an emergency room physician or a
33 physician on the emergency department's on-call list.

34 (g) (1) It is the intent of the Legislature in enacting
35 this subdivision to enable the department to obtain
36 medicare cost reports for the purpose of evaluating its
37 Medi-Cal reimbursement rate methodology for nursing
38 facilities.

39 (2) Skilled nursing facilities licensed pursuant to
40 Chapter 2 (commencing with Section 1250) of Division

1 2 of the Health and Safety Code shall submit copies of all
2 Medicare cost reports to the department by October 1,
3 1995, for reporting periods that ended between July 1,
4 1993, and June 30, 1995.

5 On or after July 1, 1995, those facilities shall submit the
6 copies to the department on the date that the Medicare
7 cost reports are submitted to the Medicare fiscal
8 intermediary.

9 (3) Hospitals providing skilled nursing care licensed
10 pursuant to Chapter 2 (commencing with Section 1250)
11 of Division 2 of the Health and Safety Code shall submit
12 a copy of all Medicare cost reports for reporting periods
13 ended:

14 (A) January 1, 1993, through June 30, 1995, to the
15 department by October 1, 1995.

16 (B) On or after July 1, 1995, to the department when
17 the Medicare cost reports are submitted to the Medicare
18 fiscal intermediary.

19 (h) This section shall become operative on July 1, 2004.

